



LEWIS BRISBOIS BISGAARD & SMITH LLP

Adam E. Collyer
77 Water Street, Suite 2100
New York, New York 10005
Adam.Collyer@lewisbrisbois.com
Direct: 646.783.1723

November 30, 2020

File No. 49315.02

VIA ECF

The Honorable Jesse M. Furman
United States District Judge
United States District Court
Southern District of New York
40 Foley Square
New York, NY 10007

Re: *Angeles v. Bjorn's Stereo Designs, Inc.*
Docket No. 20-CV-08805 (JMF)

Dear Judge Furman:

We represent Bjorn's Stereo Designs, Inc. d/b/a Bjorn's Audio Video ("Bjorn's" or the "Company") in the above-referenced matter. We write today, on behalf of all parties, in compliance with the Court's Order, dated October 23, 2020, to respectfully request that an initial conference under Rule 16 of the Federal Rules of Civil Procedure not be scheduled at this time. *See* ECF Docket Entry No. 5.

Plaintiff Jenisa Angeles' ("Plaintiff") affidavit of service, filed on November 19, 2020, asserts that Bjorn's was served on October 29, 2020. *See* ECF Docket Entry No. 10. Upon Bjorn's request, made with Plaintiff's consent, the Court extended the Company's time to respond to December 18, 2018. *See* ECF Docket Entry No. 8. Although the parties have been in communication and counsel are acquainted with one another, no discovery or settlement discussions have taken place as of yet.

In accordance with the Court's Individual Practices, Bjorn's intends to move to dismiss the complaint. Bjorn's does not do business in New York City, or, for that matter, anywhere else in New York State. As set forth on the website,

Bjorn's is a solutions and custom installation provider in the San Antonio, TX area for design, integration and installation of home theater systems, distributed Audio/Video systems, whole house control, home networking, smart home and internet services for residential environments.

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See Bjorn's, last visited on November 25, 2020, www.bjorns.com.

The same paragraph notes that the Company “proudly serv[es] San Antonio and its surrounding areas as well as most of Central and South Texas,” and encourages consumers to “visit [Bjorn’s] retail showroom.” *Id.* The vast majority of the Company’s business is custom design and installation at home, rather than the sale of individual electronic goods. Bjorn’s does not market to a New York audience, seek New York customers, or deliver goods or services to New Yorkers. It has no presence in the New York market whatsoever. As a result, Plaintiff is unable to establish that “some degree of commercial activity occurred in New York,” making this suit subject to dismissal. See *Alibaba Grp. Holding Ltd. v. Alibabacoin Found.*, No. 18 Civ. 2897 (JPO), 2018 U.S. Dist. LEXIS 72282, *4 (S.D.N.Y. Apr. 30, 2018) (“The existence of an interactive patently commercial website that can be accessed by New York residents is not sufficient to justify the exercise of personal jurisdiction unless some degree of commercial activity occurred in New York”).

Plaintiff intends to oppose Bjorn’s motion. Should this case continue after the Court renders a decision on Bjorn’s anticipated motion to dismiss, the parties are inclined to utilize alternative dispute resolution through either a settlement conference before a Magistrate Judge or referral to the Southern District’s mediation program. Additionally, should the Court so desire, the parties will participate in a conference to address Bjorn’s anticipated motion to dismiss.

We thank the Court for its attention to this matter.

Respectfully,

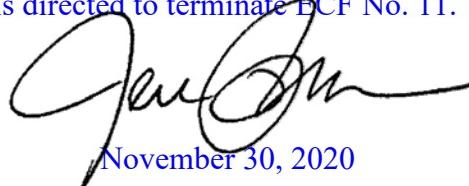
/s/ Adam E. Collyer

Adam E. Collyer of
LEWIS BRISBOIS BISGAARD & SMITH LLP

AEC

cc: All counsel of record

After reviewing the parties' joint letter, *see* ECF No. 11, the Court concludes that an initial pretrial conference is not necessary at this time. Upon receipt of any motion to dismiss, the Court will enter an order regarding amendment of the complaint and/or opposition to the motion. The Clerk of Court is directed to terminate ECF No. 11. SO ORDERED.



November 30, 2020